

**INDONESIA:  
NATIONAL POLICE REFORM**

20 February 2001

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## **INDONESIA: NATIONAL POLICE REFORM**

### **EXECUTIVE SUMMARY**

In the euphoria at the demise of the New Order, there was an expectation that the 1945 Constitution's declaration that Indonesia was a state based on the rule of law might be resurrected after 40 years of neglect. The euphoria soon dissipated, however, when the scale of the challenge and the weakness of the first democratically elected government since 1957 became evident.

Reform of particular institutions, like the Indonesian National Police (INP), cannot be implemented in isolation from the other institutions of state. An effective police force will soon be rendered impotent if prosecutors, judges, and prison governors fail in their responsibilities. Likewise, reform in any of these institutions is unlikely if government revenues are not adequate to pay salaries that meet basic needs and cover the basic resources and operational costs of the institutions of government.

As a result of these shortcomings, corruption has become endemic across the whole field of public employment from top to bottom. Despite democratic elections, the underlying political structures are still based on deeply rooted patronage networks. Reforms that threaten these structures will be strongly resisted unless means are found to raise taxes to cover reasonable costs of government and legitimise the existing structures of power.

Reform is not so much a matter of inadequate law, feeble institutions, ethical codes or expertise as of mustering political will. The Abdurrahman Wahid government is in survival mode, and there are doubts about the capacity of a successor government to address fundamental issues. Even in the absence of political will, however, it should still be possible and productive to pursue reform in areas of police administration and operations that do not threaten the structures of power. As political conditions change, reform might spread to more significant areas, eventually containing corruption to manageable levels. But there should be no illusions that this is a short-term process.

Senior police leadership is seen by some observers to be heavily politicised and inclined to block officers who want to push reform more energetically. That might be so but it also faces an enormous task of maintaining a semblance of law and order across a huge country while trying to exercise expanded responsibilities for internal security with grossly inadequate resources. It may consider that trying to impose radical change in such circumstances would overwhelm the capacity of the organisation to cope.

Regardless of senior leadership's motives, the absence of pressure from within reinforces the need for political leadership to provide the policy, resources and oversight to drive the reform process forward. The discussion of individual motives also suggests that 'the power of one' should not be forgotten. Authoritarianism seeks to suppress individuality but individuals with vision, organisational skills and drive will emerge and should be

identified and encouraged. These persons, even acting separately, can give organic direction and impetus that might eventually force democratic change in and on the institutions of state, including the police and create a culture that minimises corruption.

## **Recommendations**

### To the Indonesian Government:

#### **Short Term**

1. Appoint a multi-disciplinary, broadly representative commission to review the role, function and organisation of police within the emerging political and social structure, taking account of the introduction of regional autonomy, and clarify the law enforcement role of other government agencies.
2. Introduce legislation to implement the agreed results of the above review.
3. Establish a cabinet committee to oversee approved reforms.
4. Provide police chiefs with clear terms of appointment and goals for reform.
5. Establish a mechanism to review political activity laws, especially pertaining to treason, subversion and other crimes against the state, to ensure legitimate political activity is not impeded by threat of criminal sanctions.
6. Revise the draft police bill to emphasise the law enforcement rather than "security" role of the police.
7. Transfer the volunteer civil defence militia organisation (Hansip) to local government and disassociate it from the police.
8. Review internal security and devise an overall strategy for reconciling regional grievances within a national framework, including the role of the police.
9. Overhaul the education and training system to produce recruits attuned to the new social environment and reorient those already in the service.
10. Establish a publicly accountable body to manage police-owned businesses.

#### **Medium Term**

11. Review human resource management, including terms and conditions of employment, and expand hiring of women and horizontal recruitment.
12. Examine INP co-ordination with other law enforcement elements, especially the state prosecutor and the judicial system, and including the police forces of neighbouring countries.
13. Dispose of or revamp police businesses.
14. Develop the ombudsman's office or a separate external review mechanism to handle complaints against the police.

15. Encourage community groups to foster co-operation with and oversight of police.

To the International Community:

16. Encourage Indonesian politicians to take the lead on police reform, including helping to show how reform can be implemented in a non-threatening way and developing links to foreign parliamentary police oversight bodies.
17. Support non-governmental groups promoting constructive police reform.
18. Encourage graduate and post-graduate studies in policing for both police and students of public administration or political science.
19. Expand opportunities for Indonesian police to gain experience of how police forces in democratic countries are managed, controlled, and operate.
20. Adjust the level, content and material support of in-country training and expand co-operation with the INP in areas of mutual interest like international crime as and when democratic reform takes hold.
21. Support military reform as an essential complement to INP reform.

**Jakarta/Brussels, 20 February 2001**



## INDONESIA:

### NATIONAL POLICE REFORM

#### I. INTRODUCTION

For many years, the Indonesian National Police (INP) have been trenchantly criticised for being ineffective, inefficient, brutal and corrupt.<sup>1</sup> With the demise of Soeharto's New Order in May 1998, they were inevitably subject to public demands for fundamental reform. It would have been difficult to meet such demands at any time but it has proven impossible while simultaneously satisfying greater calls on police resources to contain the excesses of a democratising society and taking on additional responsibility for internal security.

Even assuming that the police leadership has a genuine interest in reform, little progress can be expected in the absence of political direction and the necessary oversight by internal mechanisms, parliament and the public. In a scathing critique on the 54th Anniversary of the INP, one of its former chiefs, General (Retired) Kunarto,<sup>2</sup> exposed the degradation of police powers by the New Order, the usurpation of its authority by the Army, and the challenges of reforming an under-staffed, poorly equipped, totally corrupt force despised by the public and with no institutional memory of institutional independence as part of a properly functioning law enforcement system.<sup>3</sup>

The INP does contribute to the maintenance of a semblance of law and order on the streets. However, Kunarto predicted that it would take 30 years to reform the organisation, assuming that current leaders initiated the necessary planning and management practices now. And, even that, he said, was dependent on broader social and political reforms.

The future prosperity of all Indonesians is largely dependent on genuine political reform, and a crucial element of that, as President Abdurrahman Wahid made clear in December 2000, is 'reform of the administration, and respect of the law'.<sup>4</sup> Without legal certainty, neither domestic nor foreign investors will commit substantial new capital, thus stunting economic growth and further delaying, if not undermining, democratic transition.<sup>5</sup>

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<sup>1</sup> See, for example, the numerous newspaper clippings in Kunarto, *Merenungi Kritik Terhadap POLRI*, Cipta Manunggal, Jakarta, 1995 and subsequent works.

<sup>2</sup> Kunarto was INP chief (Kapolri) 1991-93.

<sup>3</sup> 'Jangan Berharap Polri Berubah', *Suara Pembaruan*, 21 July 2000.

<sup>4</sup> 'Indonesia's President Says Ready to Tackle Economy-Report', *Dow Jones Newswires*, 28 December 2000.

<sup>5</sup> *Indonesia: Accelerating Recovery in Uncertain Times*, World Bank Report No.20991-IND, 13 October 2000.

It is now generally accepted that the institutions of justice cannot be reformed independently. A sectoral approach is needed to facilitate complementary reform of the legal codes, judiciary, prosecutorial service, police, and prisons.<sup>6</sup> In recognition of this, the Indonesian government has recently established a National Law Commission (Komisi Hukum Nasional or KHN) to advise on a co-ordinated justice sector reform program.

The scope of this paper, however, is limited to a review of the role, resources and operations of the INP within its political and social context with a view to recommending courses of action for advancing reform of this important national institution.

## II. BACKGROUND

When Dutch colonialism was shattered by the Japanese military in 1942, there were no Indonesians in the ranks of the sixteen district police chiefs of the Netherlands East Indies (NEI) and only a handful in the middle levels of the force, although many more served as field agents. This pattern was continued during the Japanese occupation except that more middle level positions were open to Indonesians.<sup>7</sup> Nevertheless, when Soekarno and Hatta declared independence in August 1945, there were very few trained and experienced senior and middle level officers to establish and man the police force of the new state.

The police were a fragmented body during the Revolution. Most joined the Republic, some rejoined the Netherlands administration and others joined the police forces of the states of the short-lived Federated Republic of Indonesia (RIS). But when Indonesia became a unitary state in the latter half of 1950, the police were re-organised on national rather than regional lines with the result that the INP has the distinction of being the world's largest police force.

To meet the demand for a rapid increase in police numbers, the INP quickly established a comprehensive range of education and training institutions. Some foreign assistance was also provided directly and indirectly both in Indonesia and by overseas visits and course attendance.

The force held a respected place in Indonesian society and maintained a reasonable degree of independence from the political parties and from government interference in operational matters until the Declaration of Guided Democracy in July 1959. The First Minister, Djuanda, was able to exercise some restraint until his death in November 1963 but from then until 1966 the force was also wracked by internal dissension and political power plays as Soekarno used all means, including the police, to balance the power of the army.

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<sup>6</sup> As a recent report by the International Council on Human Rights identified, reform of the components of the official justice sector (police, prosecutors, judiciary and prisons) must be approached within the context of the system as a whole.

<sup>7</sup> Harsja W. Bachtiar, *Ilmu Kepolisian: Suatu Cabang Ilmu Pengetahuan yang Baru*, PTIK & PT Gramedia, Jakarta, 1994, pp. 37-65. This is the first book in Indonesian that brings together international developments in policing and the Indonesian experience.



The emergence of authoritarian governments shifted the orientation of the INP away from the maintenance of law and order towards greater emphasis on internal security and co-operation with the Army.<sup>8</sup> In other words, the ethos of the INP shifted away from law enforcement towards protecting the interests of the government of the day. The fact that many officers with a para-military (Brimob)<sup>9</sup> background still occupy senior positions in the force is a legacy of this orientation.

Although Soekarno declared the police a branch of the armed forces in 1960, they remained under presidential control until 1967 when they were formally placed under command of the Minister for Defence and Security and Commander of the Armed Forces. The consequences of military control were catastrophic for the police. Education and training were militarised, relative budget allocations were reduced, the police/population ratio fell from 1:500 to 1:1200, overseas support and education and training opportunities were drastically reduced, police powers were usurped by the army and the police were subjected to military law.<sup>10</sup>

Ironically, by 1976 the military leadership was complaining that the technical competence of the police had declined, that it was not responding to community demands for protection and security from crime, and that it had become militarised in relations with the community. Although proposals were made to rectify these shortcomings at various times, they were not adopted.<sup>11</sup>

Corruption increased in Indonesian society towards the end of the 1950s as inflation began to get out of control but during most of the 1950s it was minor compared with what evolved during the New Order (1966-1998) when 'Tidal Corruption' inundated the country. By 1998 the images of government, the Indonesian Armed Forces (TNI) and the police were assessed to be at their lowest ebb in Indonesia's history. The recommended cure for the police was overall reform and refocusing on serving the people.<sup>12</sup>

The INP participated in internal security operations from its inception, and Brimob grew and became a central element of the force from the late 1950s onwards. Brimob units played a major role in operations against the PRRI/Permesta rebellions in 1958-61. Their numbers and para-military capacity were radically

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<sup>8</sup> Awaloedin Djamin, *Pengalaman Seorang Perwira Polri*, Pustaka Sinar Harapan, Jakarta, 1995, pp. 81-83, 211-217, 328-336 gives a brief outline of these developments.

<sup>9</sup> Brigade Mobil Polri (Indonesian Police Mobile Brigade) is the para-military arm of the police designed to perform tasks that require large numbers of police operating under cohesive command arrangements for tasks like crowd and riot control and internal security operations. In addition, it performs specialist tasks such as counter-terrorism, armed hold-up response, bomb disposal and search and rescue.

<sup>10</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, pp. 88-89, 149-150, 161. Awaloedin Djamin was chief of police 1978-1982 and has an unrivalled background in public administration, police administration, and tertiary education. He has been an adviser to several chiefs of police and has produced a sample methodology for the reform of the police.

<sup>11</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, pp. 89, 184-5. Similar concerns were raised again in the early 1990s but proposals for reform did not progress. The shortcomings in police performance stemmed, of course, primarily from the nature of the regime rather than internal police management.

<sup>12</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, pp. 100-104, 203.

reduced in the early 1980s.<sup>13</sup> Nevertheless, they have been deployed in all Indonesia's trouble spots as well as in urban areas for crowd and riot control and as backup for other police functions. Since the fall of Soeharto, they have been more heavily engaged in operations in Aceh, Maluku, Irian Jaya and elsewhere, and their numbers have more than doubled to about 40,000.

## A. Ministerial Responsibility

From its inception until the late 1960's, the INP was responsible to the prime minister or president. It was declared one of the armed forces in 1960 and became the responsibility of the Minister for Defence and Security in 1967. The INP was formally separated from the armed forces on 1 April 1999 but remained under the Ministry of Defence until 1 July 2000 when President Abdurrahman Wahid announced that the police would regain their independence and be directly responsible to him as of that day.<sup>14</sup> As a symbol of the change, police ranks were civilianised but the organisational structure remained unchanged. Separating the police from the armed forces is a fundamental prerequisite for reforming the police but it is only the first step in a long journey.

There has been some debate as to whether the INP should be placed under the responsibility of the president, a ministry of police, the ministry for home affairs, or the attorney general. In August 2000, the People's Consultative Assembly (MPR) confirmed the president's decision to place the police under his control but stipulated that a commission<sup>15</sup> should be formed to advise the president on the appointment of the police chief and policy matters and to exercise oversight of police management and performance.<sup>16</sup> The National Law Commission (KHN) will also perform a similar function to guide and calibrate reform of the justice sector as a whole.

The essential distinction to be drawn is that between responsibility for administration of the INP, that is, how it will be established, organised, manned, resourced, and overseen; and capacity building and operational responsibility, that is, the day-to-day work of nurturing the organisation and deterring crime, maintaining order, gathering criminal intelligence, arresting suspects and providing briefs to the prosecutors. The former is the prime responsibility of policy makers. The latter is the prime, but not exclusive, responsibility of the chief of police.

Consequently, it matters little which minister is given responsibility for the administration of the police as long as the distinction between administrative and operational responsibilities is clear, sectoral co-ordination is achieved, adequate arrangements are made to oversee police operations to ensure that they operate within the law, and political interference in criminal investigations is avoided.

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<sup>13</sup> Prior to the reforms of the early 1980s Brimob was formed into light infantry battalions (about 600 men) with a wide range of supporting weapons and equipment. Thereafter, their numbers were reduced, supporting weapons were handed over to the army, and sub-units of about 100 men (Kompi Brimob) became the basic operational unit of Brimob.

<sup>14</sup> In practice the changes did not take effect until 1 January 2001.

<sup>15</sup> Komisi Kepolisian Nasional (KKN). It is unfortunate that this acronym also stands for 'corruption, collusion and nepotism'.

<sup>16</sup> 'Lembaga Kepolisian Nasional: Penamaan dan Konsepsi', *Republika*, 1 November 2000.

Although not sufficient in itself, 'political will' is an acknowledged essential prerequisite for police reform. At least in principle, therefore, there is no better authority to be ultimately responsible for the police than the president as long as he has the time to attend to the duties.<sup>17</sup> The breadth of the president's responsibilities, however, might mean that he has to delegate police reform to a senior assistant minister or some other authority with special responsibility for police reform under his direction. That official in turn will need to have available the expertise, resources and political influence, including the president's backing, to direct and oversee the desired reforms

## B. Organisation

As a national police force, the INP is headquartered in Jakarta and has subordinate headquarters at provincial level. These in turn have subordinate headquarters in major urban centres (22 Polwil) and at district (285 Polres) and sub-district (3300 Polres) levels that link the police with all levels of the civil administration and the community.

Within this chain of command the INP is also organised on functional lines with the major operational divisions being:

- Intelligence and security (Intel-Pam),
- Criminal investigation (Reserse),
- Patrol (Samapta),
- Traffic (Lantas)
- Community guidance (Bimmas).

The work of these functional divisions can be reinforced by air, marine and para-military mobile brigade units, and by technical support services.<sup>18</sup>

Although the police are organised hierarchically, like the military, senior commanders should have no role in determining the outcome of individual criminal cases except in the sense that they should provide investigating officers with the requisite support and technical assistance to complete their investigations.<sup>19</sup> This distinction was not generally observed in the New Order period, and the practice has continued. The recently dismissed Police Chief, General Rusdihardjo, for example, alleged that he was asked by President Abdurrahman Wahid to influence the investigation of the Bulog scandal that directly implicated the president. He refused to comply but observed that 'not all police leaders followed that example'.<sup>20</sup>

Interference in criminal investigations is to be expected in authoritarian regimes and will never be entirely eradicated under any regime. However, it can be limited by complementary reforms in the justice system as a whole, the encouragement of whistle blowing, and community oversight.

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<sup>17</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, p. 109.

<sup>18</sup> For more detail on Polri organisation see *Kepolisian Negara Republik Indonesia - Indonesian National Police*, PT Gramedia Pustaka Utama, Jakarta, 1995.

<sup>19</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, p. 92,155.

<sup>20</sup> Rusdihardjo: "Presiden Adalah Tersangka", *Tempo*, 10 December 2000, p. 23.

Formal career management has all the outward trappings of a modern system but lacks the content. Important career decisions are based on patronage from enlistment to final appointment.<sup>21</sup> The education system is structured to provide progressive training but quality is lacking, especially in the lower ranks, and cannot cope with the volume required. For example, in 1998 the chief of the criminal investigation division claimed that only 40 per cent of his 18,000 investigators had received specialist training.<sup>22</sup>

The police claim sole responsibility for submitting cases for prosecution but many other agencies have responsibility for criminal investigation. For example, the Navy has responsibility for the investigation of maritime crime, and the Customs, Forestry, Taxation and Immigration services each have responsibility for initial investigation of breaches within their respective jurisdictions. Recently, the National Human Rights Commission (Komnas HAM) was also entrusted with initial investigation of gross violations of human rights.<sup>23</sup>

About 11,000 personnel have prescribed investigative authority. Although all investigations conducted by prescribed investigators are supposed to be channelled via the INP to the prosecutor's office (Kejaksaan), conflicting and overlapping legislation and regulations allow the INP to be bypassed in many cases.<sup>24</sup>

Overlap also exists, in practice, between the police and the prosecutor's office in relation to the investigation of corruption and other politically sensitive matters, as well as with the National Intelligence Agency (BIN) on issues like narcotics, and with other government departments over a range of issues.<sup>25</sup> As one police chief explained, 'where there is money everyone wants a share'.<sup>26</sup>

Like the TNI, police officers are recruited nationally and may be posted anywhere in the archipelago. As with the TNI, this has the effect of co-opting minorities even though Javanese are the dominant culture group within the INP.

Women have been employed in the INP since 1948 but their numbers have been small (around 3 per cent) and their roles restricted to specialist and office duties. In the past couple of years, however, they have been given the opportunity to compete with men, and some have been given command of police posts at sub-district level.<sup>27</sup> Providing more opportunities for women will improve both equity and the quality of applicants.

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<sup>21</sup> Kunarto, *Kapita Selekta Binteman POLRI*, Cipta Manunggal, Jakarta, 1999, p. 84.

<sup>22</sup> Major General (Police) Nurfaizi, 'Peningkatan Kualitas Profesi Penyidik' in *Polisi dan Masyarakat*, Cipta Manunggal, Jakarta, 1998, p. 107.

<sup>23</sup> For more on this see, *Indonesia: Impunity Versus Accountability for Gross Human Rights Violations*, ICG Asia Report No. 12, Jakarta, 2 February 2001.

<sup>24</sup> Major General (Police) Nurfaizi, 'Peningkatan Kualitas Profesi Penyidik' in *Polisi dan Masyarakat*, Cipta Manunggal, Jakarta, 1998, p. 110-111.

<sup>25</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, p. 279.

<sup>26</sup> Anonymous interview with ICG.

<sup>27</sup> 'Polwan Siap Tingkatkan Profesionalisme Menuju POLRI Mandiri', *Suara Pembaruan*, 3 September 1999.

The overall structure of the police force is top heavy and encumbered with a military staff system. The INP intends to thin-out the national and provincial headquarters and make the district (kabupaten) police headquarters the basic operational unit with the full range of capabilities and resources to manage day to day law and order matters. External specialist assistance will still be needed, for example, information management systems and forensic services.

### **C. Strength**

INP strength is estimated to be about 250,000, up from 190,000 in 1998. Plans call for the force to be increased to 300,000 by 2004. The increase in numbers has been accomplished by raising the annual intake to 13,000 and extending the retirement age for other ranks from 48 to 58. The total includes 40,000 Brimob and 22,000 detectives. In addition, about 27,000 civilians provide support services. About 40 per cent of the force is employed in command and administrative positions but it is intended to reduce that to between 20-25 per cent.<sup>28</sup>

### **D. Non-Police Law Enforcement**

In addition to the police, there are over 200,000 private security guards (SATPAM), including about 90,000 in Jakarta, providing security to government and private buildings and facilities. There are also the non-police investigators, mentioned above; a civil defence force (Hansip);<sup>29</sup> and municipal police (Polisi Pamongpradja).

The police are responsible for the regulation, supervision, education and training of all law enforcement related bodies, or at least ensuring that appropriate standards are maintained. The SATPAM system was established in 1980 and seems to operate reasonably effectively. Measures are also currently in hand to extend supervision to the private security industry (consultants, suppliers of security equipment, and the practices employed).

SATPAM are employed by the enterprise desiring security. The system was established to give police control and to demobilise several competing security companies established by retired military and police officers. The intensity of competition between these companies and the means they used to obtain customers was becoming a threat to security in itself.

Needless to say, police regulation of SATPAM is not a free good but at least it provides a degree of local security and co-ordination in the event of incidents. Private security services are a growth industry world wide and a major generator of employment. Once the legal system has been reformed, there might be a case for opening competition in this sector.

Hansip was established in 1962 and comprises volunteers organised and administered by the Department of Home Affairs. They are supposedly only to be mobilised for special events, such as elections, major sporting events, disaster

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<sup>28</sup> 'Kapolri Letjen (Pol) Rusdihardjo: Tembak di Tempat untuk Cegah Efek Domino', *Kompas*, 24 January 2000.

<sup>29</sup> There is a web of terminology and role differentiation related to these forces (Wanra, Kamra, Linmas etc) but Hansip (Civil Defence) is a common generic term covering all of them.

relief, or during domestic or inter-state conflict. The Hansip comprises three elements: Peoples' Defence (Wanra), People's Security (Kamra), and Community Protection (Linmas). When mobilised, they are allocated to the military, police and local government respectively although these distinctions are not always made in practice.

In late 1998, 40,000 Kamra were put on a two-year contract to boost security for the 1999 parliamentary and presidential elections. Those contracts expired on 31 December 2000 and were not renewed despite pressure although many have probably been absorbed on the government pay roll in one form or another. Most Kamra personnel did not meet the educational or physical prerequisites to become regular members of the police force.<sup>30</sup>

The same applies to Hansip more generally. There are around five million Hansip nation-wide, and although originally to be mobilised for specific events only, it quickly became a disguised form of unemployment relief with many being employed by local governments or allowed to operate independently as parking attendants, security guards and assistants to municipal police. Suggestions that they be disbanded have been rebuffed because of the social problems that might arise in the absence of alternative employment and any formal system of unemployment relief.<sup>31</sup> INP has tended to ignore them but their nominal association with the police detracts from the public image of the force.

The municipal police are employed by local governments to uphold their laws, particularly as they relate to the regulation of hawkers, rubbish disposal, building regulations, and land use. Their numbers are quite small. Jakarta, for example, has only about 700.<sup>32</sup> They are not armed and occasionally need police backup, especially when moving hawkers and evicting squatters, although this is not always forthcoming.<sup>33</sup>

In addition, there is a Neighbourhood Security System (Siskamling) under local government arrangements that mobilise the community to provide for its own security either by participating in neighbourhood patrols/watch or by making a financial contribution. Hansip often play a prominent role in this system, which the police oversee.

Only the police and specified investigators have powers of arrest and investigation. SATPAM, Hansip and municipal police do not but may detain suspects until police are called. Some SATPAM are authorised to bear firearms for specific tasks. Hansip and municipal police are not authorised to bear firearms but many have knives or makeshift batons for self-defence.<sup>34</sup> Restrictions on firearm ownership and use enshrined in a 1951 law, although not always fully enforced, should be strongly defended if they ever come under question.

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<sup>30</sup> 'Civilian guards attack journalists, take hostage', *Indonesian Observer*, 8 December 2000.

<sup>31</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, p. 235.

<sup>32</sup> 'City to hire 300 Kamra members', *The Jakarta Post*, 23 October 2000.

<sup>33</sup> 'Governors request command over provincial police', *The Jakarta Post*, 22 July 2000.

<sup>34</sup> There is a proposal to issue capsican sprays to municipal police in Jakarta.

It would, therefore, seem that estimating how many police are needed is not simply a matter of police/population ratios. As well as community characteristics, account should be taken of the other public and private agencies involved in law enforcement, advances in technology, and possible internal efficiencies.

Given Indonesia's sparse resources it is unrealistic and probably unnecessary to expect that the police could be expanded to the ratio of 1:500 that is often quoted as desirable.<sup>35</sup> Modern technology and enhanced community participation might allow law and order to be maintained at reasonable levels with a far lower ratio. A realistic force will be the outcome of political demands, resulting resource allocations, and success in fostering community participation and respect for the law and law enforcement agencies.

## E. Legal Framework

The police are regulated by five principal pieces of legislation:

- The Criminal Code (UU No. 1/1946 KUHP)
- The Criminal Procedures Act (UU No. 8/1981 KUHP)
- The Police Act (UU No. 28/1997)
- The National Emergency Act (UU No. 23/1959)
- The Conditions of Service Act (UU No. 43/1999).

There is no vacuum of laws in Indonesia. While particularly those that restrict democratic freedoms do need updating, the first two pieces of legislation cited above provide a sound basis for police operations if implemented according to their spirit and letter. Meanwhile, the human rights amendments recently enshrined in the Constitution provide some protection against undemocratic provisions. Amendments to the third act have been submitted to parliament to reflect the separation of the police from the military. This bill needs revision to eliminate the philosophical emphasis on security and to refocus on the principles of rule of law. Other elements are too constraining or undemocratic but do not involve matters of high principle. For example, the choice of police chief is restricted to serving police officers, and it is stipulated that the appointee must believe in God.

The National Emergency Act authorises the president to declare one of three states of emergency: civil emergency, military emergency, or war. The civil emergency provisions are being applied in Maluku. They grant extensive powers to the governor to declare a range of restrictions on information, communications, movement, public assembly, confiscation of property, and the like, and direct the activities of the police and other law enforcement agencies and public services in the area. The other two states of emergency pass executive authority to nominated military commanders under the president's direction.

A revised National Emergency Act (Penanggulangan Keadaan Bahaya) was passed by the parliament during the Habibie presidency (1998-1999) but has not been brought into force due to public antipathy to the military and the fear that it might be used as a vehicle for the reintroduction of military rule. Consequently, in February 2001 it was decided that a new bill would be drafted taking account of public concerns while providing a legal basis for the suspension of specific rights

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<sup>35</sup> Kunarto, *Kapita Selekta Binteman POLRI*, Cipta Manunggal, Jakarta, 1999, p. 83.

and the employment of the police and military in emergency situations. A broad range of community interest groups is being consulted in the drafting of this revised act.

The Conditions of Service Act regulates the career cycle from first appointment through education and training, employment, promotion, sickness and retirement. Salary levels have risen but not sufficiently to stimulate professionalism or diminish the instinct to supplement incomes by legal and other means.

## F. Corruption

The image of corruption in the INP is justified but also magnified because police corruption is more visible than most other forms. It arises every time vehicle registration and drivers licences have to be obtained or renewed. Many lower ranking police are also involved in petty corruption on a daily basis collecting on-the-spot payments in lieu of fines from passing motorists, demanding free meals from food stalls, demanding pocket money for various reasons from business operators, demanding fees for law enforcement services, and demanding free services from the illicit service sector. As a common saying goes, 'If you report a chicken missing you are likely to lose your cow'.<sup>36</sup>

In a recent survey of Jakarta police officers, the Indonesian magazine TEMPO found that although about 50 per cent of officers claimed to be satisfied with their salary and allowances, 83 per cent needed to supplement their income.<sup>37</sup> Some police do so by taking second jobs but many more take an easier route.

Officers have access to much greater rewards in the form of gifts of houses, land, cars, education of children, overseas holidays, share ownership, jobs for family members, and sinecures on retirement. The power to attract these rewards comes from their ability to influence the outcome of cases, provide physical protection, and extort.

Some of the funds so obtained are used to support operations. The minister for defence, for example, claims that the official budget covers only 30 per cent of his department's actual budget. The remainder has to be sought elsewhere. The police are in a similar position. Most of the extra-budgetary funds go to supplementing meagre salaries.

A recent example illustrates the scale of the phenomena. When the Jakarta chief of police was replaced in October 2000, he donated 22 imported cars and seventeen motor cycles worth \$US 574,000 to the Jakarta police. The significance of that figure becomes obvious when compared with the annual operations budget for that force: \$US 103,000.<sup>38</sup> There were some questions asked about how a police officer on such a low salary could acquire such wealth, and there was some speculation about what proportion of his wealth this gift represented but he was also praised for his success in collecting 'tokens of appreciation' from tycoons who have benefited from police protection. Senior

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<sup>36</sup> 'Dana Operasi Polisi: Uang Terima Kasih yang "Delapan Anam"', *Kompas*, 17 May 2000.

<sup>37</sup> 'Mereka Malu Dituding Polisi Korup', *Tempo*, 3-9 July 2000.

<sup>38</sup> 'Nurfaizi donates cars, motorbikes', *The Jakarta Post*, 22 October 2000.



police conceded that without this sort of generosity the police could not fulfil their community obligations.<sup>39</sup>

The consequences of corruption came to light in another context recently when truck drivers in Aceh went on strike in protest at the rapacity and brutality of police and military at numerous road blocks along the main supply routes from Medan to Banda Aceh.<sup>40</sup> The strike left fish rotting in the markets, caused food shortages, and blacked-out Banda Aceh, capital of Aceh, for three days.

Corruption is not confined to the police; it is merely a reflection of the fact that Indonesia, according to Transparency International, is ranked as one of the most corrupt countries in the world (tied with Angola for 85th out of 90 positions).<sup>41</sup>

The existence of corruption is not due to the absence of organisational mechanisms and related laws and regulations. Every organisation has internal and external inspectors and auditors but as retired Police General Awaloedin Djamin bluntly conceded, they 'have been completely ineffective'.<sup>42</sup>

Dealing with corruption requires political will and a combination of incentives and sanctions that reduce the motives/justification to engage in such behaviour and increase the likelihood of being caught and punished. There has been much discussion, and some action has been foreshadowed, but there has been no concrete action on any of these fronts.<sup>43</sup>

The INP has had ethical codes since the 1950s, and much paper, time and energy has been expended propounding them.<sup>44</sup> Several pamphlets and field guides have recently been added to the pile.<sup>45</sup> If they were observed, the INP would be a truly great public institution but as long as the structural and cultural conditions described in this report are not addressed, codes of ethics will be of little practical use.

## G. The Justice Sector Framework

Indonesia has all the justice sector institutions of a modern state. However, they were almost totally subverted by 40 years of authoritarian rule and corruption. Democracy has brought little change. As one observer noted, 'the court system is still widely regarded as a state-run mafia'.<sup>46</sup>

Indonesian law needs extensive review and updating but it would be adequate for transitional purposes if the prosecutor's office (Kejaksaan) and court system were

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<sup>39</sup> 'Nurfaizi's Rp 5b donation gets mixed reaction', *The Jakarta Post*, 23 October 2000.

<sup>40</sup> 'Aceh: Buah Tangan Pungli', *Gatra*, 17 February 2001, p. 41.

<sup>41</sup> 'Worried Asian nations launch rearguard campaign against corruption', *AFP*, 10 December 2000.

<sup>42</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Profesional*, Yayasan Tenaga Kerja Indonesia, 1999, p. 294.

<sup>43</sup> Plans are in progress to establish an anti-corruption commission in August 2001 but it will have little impact unless political conditions change.

<sup>44</sup> Kunarto (ed), *Tri Brata Catur Prasetya: Sejarah – Perspektif & Prospeknya*, Cipta Manunggal, Jakarta, 1997.

<sup>45</sup> Adang Daradjatun, 'Tanggung Jawab POLRI Dalam Memenuhi Harapan Dan Kenyataan', paper presented to a conference on police reform in Jakarta on 2 February 2001.

<sup>46</sup> 'Mapping Indonesia's legal reform', *The Jakarta Post*, 14 December 2000.

reliable.<sup>47</sup> Both those institutions need extensive reform, however, to restore their independence and professional standards. Some steps have been taken in this direction. The Supreme Court, for example, has established a committee to draft a law designed to give greater cohesion to an integrated justice system.

Despite such glimmers of hope, however, the World Bank assessment that 'the problem is so deep seated that it is going to take years to solve,' that 'it is very hard to find an anchor to support a change in the system' and that 'we don't have a champion on the legal reform side' remains valid.<sup>48</sup>

## H. Human Rights

The original 1945 Constitution makes a brief mention of certain values associated with basic human rights but, historically, they were more honoured in the breach. Reflecting international developments, some individuals and organisations struggled to promote respect for human rights during the New Order but the general nature of the regime foiled their immediate efforts.<sup>49</sup> Nevertheless, that struggle was one of the motivations that fuelled efforts to topple Soeharto in 1998 and have left a legacy of support that could provide the basis for democratic and legal reform more generally. It also contributed to constitutional amendments enacted in August 2000 that make specific provision for the protection of a broad range of human rights.

In a review of human rights breaches in 2000, however, *Kontras* (Commission for Victims of Violence and Missing Persons - an Indonesian human rights NGO) claimed that police doctrine and conduct for handling internal security operations has not changed with the transition to democracy, and police continue to take a security approach rather than one which promotes respect for the law and human rights.<sup>50</sup>

Most of these offences can be prosecuted under civil or military law if the authorities so determine. The commission of gross violations of human rights has been addressed in a law which came into effect on 6 December 2000 (Law No. 26/2000) and extends the powers of the Komnas HAM and provides for the establishment of human rights courts within four years.<sup>51</sup> However, without complementary changes in the structure of political power and reform of the justice sector as a whole, including the police and TNI, the passing of legislation will have little impact on improving respect for human rights on the streets or in the field.

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<sup>47</sup> *Law Reform in Indonesia: Results of a research study undertaken for the World Bank*, Cyberconsult, Jakarta, 1998 provides a useful overview of the challenges involved in reforming the justice sector.

<sup>48</sup> 'Interview with Mark Baird, World Bank Country Director: "Waiting for Certainty to Come Back Is a False Hope"', *Van Zorge Report*, 17 October 2000, p. 27.

<sup>49</sup> Names such as T. Mulya Lubis, Adnan Buyung Nasution, Munir, Sahrinah, and organisations like the Lembaga Bantuan Hukum (Legal Aid Bureau), Komnasham, and Kontras and many others are widely known in Indonesia for their work in advancing respect for human rights.

<sup>50</sup> For a summary of alleged human rights abuses involving the police in 2000, see 'Police top human rights abuses, reports Kontras', *The Jakarta Post*, 10 December 2000.

<sup>51</sup> *Indonesia: Impunity Versus Accountability for Gross Human Rights Violations*, ICG Asia Report No. 12, Jakarta/Brussels, 2 February 2001.

### III. PLANS FOR REFORM

The INP has taken several initiatives to address community concerns about the need for police reform. In mid-1999 it released a 'blue book' on police reform that addressed the cultural, instrumental and structural challenges.<sup>52</sup> And, in December 2000, it issued a development paper addressing police force manpower requirements, structure, personnel management, and community policing issues.<sup>53</sup> Both the book and the paper are normative and aspirational documents rather than detailed plans for implementing reform. A sample methodology for planning reform has also been prepared.<sup>54</sup> Uncertainty about government direction and budget allocations are given as reasons for the absence of detailed reform plans.<sup>55</sup>

#### A. Foreign Assistance

The United States, Japan, and the United Kingdom have offered extensive assistance with reform of the INP. Australia, Germany, France, Sweden, Taiwan and others have also provided various forms of assistance on a lower scale. The United Nations is providing some assistance with human rights education and training. The Partnership for Governance Reform has added the police as one of its priority areas for reform.<sup>56</sup>

The first three countries mentioned above had ambitious plans to assist the INP in a massive 'change management' exercise on the assumption that there was political impetus for such change. That assumption has proven unfounded, and plans for assistance have been cut back and reoriented to more specific and technical assistance that will have little immediate effect on the basic structure and operation of the INP.

US government agencies identified a comprehensive basket of reforms. In accordance with that menu and after noting the programs of the other countries, their Jakarta representatives proposed an extensive program of in-country training in leadership, transition to civilian policing, narcotics policing, civil disturbance management, and human resources management. The donation of equipment and materials was to be considered in a further phase of the program. The UK was focussing on a change management program and Japan on communications and traffic projects. As mentioned above, all these programs have either been postponed or heavily pruned due to the unwillingness or inability of the INP to absorb them in the near term.

Some of the resulting foreign frustration stems from a lack of appreciation about the scale of the changes needed and of the realities that individual institutions can not be reformed in isolation, much time is required, and successful reform is dependent on mustering the requisite political support. Undue foreign pressure will naturally cause resentment and not necessarily hasten reform. This raises the

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<sup>52</sup> Reformasi Menuju POLRI Yang Profesional (Creating a Professional Police Force), 1 July 1999.

<sup>53</sup> Peran Dan Strategi POLRI Dalam Mewujudkan Supremasi Hukum Dan Pemeliharaan Keamanan (Police role and strategy in achieving the rule of law and the maintenance of security), 18 December 2000.

<sup>54</sup> By Awaloedin Djamin in his capacity as adviser to the chief of police.

<sup>55</sup> ICG interview with senior INP officers.

<sup>56</sup> This is a partnership between multi- and bi-lateral donors and the Indonesian government and non-government organisations.

question of what form foreign assistance should take and when it should be offered. Nevertheless, a recent International Human Rights Council report supports the view that assistance should be maintained to the official justice sector as long as the debate on reform can be kept alive and some groundwork laid for the future.<sup>57</sup>

## **B. Prospects for Reform**

The problem of reform is not one of technical competence or expertise or the broader framework of the justice sector; rather, it is one of political will. Political will is not present because of underlying structural problems. Under a thin veneer of democratic ambition is a deeply entrenched patrimonial political structure that pervades the political parties, the government, the bureaucracy, and the police and military.

A weak government in survival mode is incapable of dealing with such structural challenges even if it had the ambition to do so. Individuals might aspire to reform, and some significant changes have occurred, like separation of the police from the military, changes of legislation governing the police, and the adoption of more effective forms of controlling civil disturbances. But these are non-threatening changes that do not challenge the structure of power or the patronage networks. Substantive reforms, like a rigorous review of police roles, organisation, structure, methods of operation, education and training and resource allocations, although mandated by a general People's Consultative Assembly (MPR) directive, have not been followed by executive policy direction. A multi-disciplinary and broadly representative team under parliamentary or presidential direction is probably needed to achieve this.

However, no government is going to institute reforms that might threaten the structures of power and patronage unless they are part of a broader pattern of reforms that legitimise the existing institutions. This includes turning private corruption into public taxation, substantially increasing public sector funding of government agencies - including salaries -- regulation of political party funding, differentiation of professional public service appointments from political appointments, visibility and accountability of public funds, deciding on an amnesty for past acts of corruption, and educating the elite (including senior levels of the police and TNI) to accept that the rule of law applies to them, too.

If justice sector reforms were implemented before these basic problems are addressed most of the elite and middle classes in public employment would be vulnerable to prosecution. The police are part of this general political and cultural environment. Consequently, in the absence of government direction, it is not surprising that the INP has shown little interest in substantive reforms that are a necessary complement to justice sector reforms characteristic of democratic societies.

Like the other agencies of government, the INP has to find its own funds to cover operational and personnel costs not covered by its meagre government budget allocations. A recent World Bank report claims that public salaries in Indonesia

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<sup>57</sup> *Local perspectives: foreign aid to the justice sector*, International Council on Human Rights, Versoix, Switzerland, 2000.

are not as low as is generally believed.<sup>58</sup> However, the general perception is otherwise. It would also be unlikely that any realistic rise in government salaries would match the expectations that middle and senior public employees have of their worth. It is only when incentives are complemented by effective sanctions that there will be any prospect of the police, or other public sector agencies, changing their behaviour.

The current senior police leadership is seen by some observers as unduly political and retarding those who want to push reform more energetically. That might be so but it also faces an enormous task of maintaining a semblance of law and order across a huge country while taking on expanded responsibilities for internal security with grossly inadequate resources. It may judge that trying to impose radical change in such circumstances would overwhelm the capacity of the organisation to cope.

Regardless of the senior police leadership's motives, the absence of substantive pressure from within reinforces the need for political leadership to provide the policy, resources and oversight to drive the reform process forward. The discussion of individual motives also suggests that 'the power of one' should not be forgotten. Authoritarianism suppresses individuality but individuals with vision, organisational skills and the drive to overcome seemingly insurmountable obstacles will emerge and should be identified and encouraged. Even acting separately, they can give organic direction and impetus that might eventually force democratic change in and on the institutions of state, including the police.

In summary, broad ranging reform is unlikely until some or all of the following developments occur.

- Government has the political resources and incentive to demand reform and provide coherent policy direction, legislation and resources.
- A clear policy is established on how the past profits of corruption are to be treated.
- An effective sanctions mechanism is established to prosecute those involved in corruption after some form of amnesty is declared.
- Effective official (internal and external) and public police supervision and oversight mechanisms are established and shown to work.
- Individuals with vision, organisational skills and drive appear and are supported.

In the absence of political support for broad ranging reforms that might threaten the structures of power and patronage, there are four options: give up; keep pressing for macro reform; focus on non-threatening aspects of reform; or some combination of the foregoing.

Giving up is not an option that either much of Indonesian society or the international community seem willing to accept. Pressing for macro reform will only have long-term effects but is necessary to put near term objectives in context. Focusing on near term non-threatening reforms will keep the debate alive, show that reform is possible and provide a firm base for more substantive reforms once the political climate changes.

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<sup>58</sup> *Indonesia: Accelerating Recovery in Uncertain Times*, World Bank Report No. 20991-IND, 13 October 2000, p. 39.

As a simple example, a focus on preventing and managing blue collar or street crime would be non-threatening whereas a focus on white-collar crime or a genuinely independent and effective police complaints mechanism would not be welcome. Nevertheless, community groups and the media could be encouraged to focus on these more threatening issues as a way of building political pressure for eventual action on this front. The action of the truck drivers in Aceh, mentioned above, also shows how public pressure might eventually feed into the political process.

Near-term non-threatening areas where reform might be achieved could include:

- Legislation covering police roles and functions, administration, organisation, operations and oversight.
- Supplemental legislation, like the revised Emergency Powers Act.
- Communications facilities.
- Education and training.
- Crowd/riot control doctrine and techniques.
- Blue-collar crime detection doctrine and techniques, and scientific/technical assistance.
- Concepts and doctrine for internal security, including joint operations with the TNI.
- Human rights education and training.
- Public relations and information.

These measures might at least contain public disquiet about the lack of action against street crime and deal with one of the disincentives to domestic and foreign investment.<sup>59</sup> However, in the longer term substantive measures like those listed below will have to be addressed:

- Public accountability for funds allocated to the police.
- Internal and external complaints and grievance mechanisms.
- Professional personnel management systems.
- Lateral recruitment of specialists, including investigators.
- Freedom and willingness to investigate white collar crime at all levels and wherever it might occur.

Foreign assistance should also be geared to these realities. Nothing will be gained by pushing the police force directly on threatening reforms in the first instance. In-country support in the early stages should be carefully targeted to non-threatening areas where some accountability or mutual benefit is reasonably assured. An early contribution could be made by supporting broader community activities that might generate political demands, provide the skills necessary to implement change, and expose as many police officers as possible to police practices in democratic societies. As reform progresses, foreign assistance should become accordingly more ambitious.

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<sup>59</sup> 'The Indonesian Police: A Thin Blue Line', *Van Zorge Report*, 17 October 2000, p. 15.

## C. Civil Society

Non-governmental organisations (NGOs) have and will continue to play a role in promoting change in government and the agencies of government. Some NGOs, like the Legal Aid Foundation (LBH), have been active for many years. Others are emerging to promote reform generally or in specific areas, for example, Police Watch, Indonesia Corruption Watch, and Judicial Watch. At least two universities (University of Indonesia and Diponegoro University) have police studies centres that provide police schools with education services and some research capacity.

Civil society is also being invited to discuss policy formulation and draft legislation, and non-government professionals are participating in quasi-government agencies like the National Law Commission (KHN), mentioned above, which has a reform advisory brief for the justice sector overall. The KHN is in the process of establishing working groups and seeking funding for its initial reports due out at the end 2001.

In an action that could be expanded, a group of intellectuals and activists set up a fact-finding team to investigate the December 2000 Christmas bombings that left fifteen dead and nearly 100 injured. This team was established in reaction to the ineffectiveness of the police in uncovering the masterminds behind previous bombings and with a strong suspicion that members of the security forces might have been involved.<sup>60</sup> Such community action might be a useful step in 'shaming' formal institutions, establishing community accountability, and pushing reform of the police.

## IV. CHALLENGES TO REFORM

### A. Psychological Adjustment

Making the psychological adjustment from being a junior member of the armed forces subject to the whim and direction of military leaders and other authoritarian structures to being an independent law enforcement agency subject to no external influence other than the law and legislated political and social control arrangements will be a major undertaking.

The police themselves acknowledge that regaining public respect is the greatest challenge they face.<sup>61</sup> Their poor public image has meant that recruits often come to the police after being unsuccessful in obtaining employment elsewhere. This compounds the problem of winning public support but can be compensated for by rigorous selection and extension of the education and training regime for new recruits.

Once personnel management systems have been reformed, in particular freeing recruits from the necessity to pay substantial bribes to secure recruitment and graduation from initial training, shaping the attitudes of new personnel should be a relatively easy matter. However, recruits will quickly adjust to realities on the

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<sup>60</sup> 'Indonesian think tank to probe bombings', *AFP*, 25 December 2000.

<sup>61</sup> Adang Daradjatun, 'Tanggung Jawab POLRI Dalam Memenuhi Harapan Dan Kenyataan', delivered at a seminar on police reform in Jakarta on 2 February 2001.

street if the existing culture is not changed.<sup>62</sup> Retraining and reorienting the existing force will, therefore, be the greatest challenge in the short-term, and should be given a high priority.

Making a psychological break from the military while at the same time recognising that they must continue to work closely together also represents a challenge. Regional leadership fora (Muspida and Tripida) that draw political leaders, police and military commanders and others together periodically to co-ordinate local events will have greater relevance than previously. However, close co-ordination of day-to-day operations will also be needed to ensure adequate and timely responses to situations that might demand the extra resources that only the military can provide.

## **B. TNI Attitudes**

Police reform is inseparable from reform of the TNI. The military has made the rhetorical adjustments but has yet to accept the rule of law in practice. It is still performing police functions, especially in the regions. Most military officers are reluctant to accept that the local police officer, usually of lower relative rank, has primary responsibility for law and order, including the direction of any military assistance.<sup>63</sup> But it is also essential that law and order vacuums are not left by the withdrawal of the military from policing responsibilities.

Having exercised over-arching power for so long and having enjoyed the economic benefits that flow from it, the military is reluctant to accept the primacy of the police in rule of law. Military facilities are effectively sanctuaries from the law despite an August 2000 MPR decree that the TNI is to be subject to civil law. The ethic of protecting the military (including retired members) from civilian intrusion is still very strong as demonstrated by the comments of a former senior police officer and member of Komnas HAM that 'we haven't seen good co-operation from the military's side' in relation to the investigation of bombings in the latter half of 2000.<sup>64</sup>

The territorial structure of the TNI provides the framework for its economic interests. Any attempt to reduce the economic rents of the army by the abolition of the territorial system, or parts of it, or by, in effect, transferring it to the police will be strongly resisted. Consequently, military reform is a separate but closely related problem that will have to be addressed as part of the overall government reform program.<sup>65</sup>

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<sup>62</sup> For an overview of the challenges facing the Indonesian police, especially in terms of personnel matters, training and equipment shortages, see 'The Indonesian Police: A Thin Blue Line', *Van Zorge Report*, 17 October 2000, pp. 5-15.

<sup>63</sup> 'Kapolri Letjent (Pol) Rusdihardjo: Tembak di Tempat untuk Cegah Efek Domino', *Kompas*, 24 January 2000. The tensions between police and the TNI in Ambon, where relative rank is not the issue, are also indicative of this problem.

<sup>64</sup> 'Military, police must work 'hand in hand'', *The Jakarta Post*, 23 September 2000.

<sup>65</sup> *Indonesia: Keeping the Military Under Control*, ICG Asia Report No. 9, Jakarta/Brussels, 5 September 2000.



## C. Regional Autonomy

It is generally agreed that the INP should remain a national force, and the creation of separate regional forces should be avoided. Retaining a national force could assuage anxieties in some quarters that regional autonomy could be the first step towards national disintegration. Nevertheless, some accommodation might be necessary to meet community concerns and entrench concepts of community policing.

Provincial governors have supported the retention of a national force but want some authority over the employment of police in crime prevention and security. Their argument is that they are responsible for security but have no other means to achieve it. This is a reasonable demand as long as it does not grant them any implicit or explicit control over criminal investigations.<sup>66</sup>

Full implementation of the current concept of establishing the district police headquarters as the basic police unit will assist this process. If fully implemented, the district police chief would have authority to exercise police functions within the district including coordination with local government and participation in community activities. The extension of the national advisory board to provincial and district level has also been suggested.<sup>67</sup>

Existing mechanisms (Muspida and Tripida) facilitate co-operation and co-ordination between the agencies of government at regional level on a periodic basis, and there is no reason why they would need to change under regional autonomy. Because of the level of political activity in the city, the governor of Jakarta has also found it necessary to establish a mechanism to co-ordinate day-to-day security operations between the police, military, Hansip and the municipal police.<sup>68</sup> This concept might be applicable in other areas suffering similar problems.

There are two issues that could raise fundamental concerns: localising the police and corruption. Although some police are deployed in their home districts, most are not. Any demand that only locals be employed in regional police posts would require a major change in the ethnic composition of the INP. Due to historical factors, Javanese are over-represented in both the military and police. The core of the problem is that the Javanese represent 45 per cent of Indonesia's population while their homeland covers only 4-5 per cent of its land area.

Consequently, while some concessions might be made to localising the police, the regions will have to accept the reality that the Javanese will continue to be over-represented in the force. Conversely, the police will need to ensure that concessions are made to local sensitivities and that non-indigenous police have the necessary skills to be accepted by local communities if the concept of community policing is to be realised.

At least initially, regional autonomy will mean the decentralisation of corruption as regional elites (including the police) struggle to get a larger share of the income accruing to rich areas and preserve their share in poorer areas. This might give

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<sup>66</sup> 'Sutiyoso wants city police under his power', *The Jakarta Post*, 27 September 2000.

<sup>67</sup> 'Lembaga Kepolisian Nasional: Pennamaan dan Konsepsi', *Republika*, 1 November 2000.

<sup>68</sup> 'Trypartite force to be formed to secure the capital', *The Jakarta Post*, 4 November 2000.

rise to intra-elite tensions. Existing mechanisms for dividing spoils will probably prevail but vigilance will be needed to ensure it does not trigger wider conflicts.

In the longer term, the greater exposure of local elites to the general public, combined with the possible expansion of democratic freedom and competition, might provide the impetus for more fundamental reform that will also impact on the police.

#### **D. Business Interests**

The police foundation (Yayasan Brata Bhakti Polri) has broad ranging business interests supposedly designed to supplement the welfare of its members. In reality they represent a form of superannuation for retired officers rather than a source of funds for the police. Nevertheless, this gives the police commercial interests, some of dubious moral or legal status. Should the police be allowed to have such a foundation and, if so, how should it be held accountable to the public and its own members? How can the commercial interests of the police be separated from their role as impartial agents of the law?

The first step is to make sure that the activities of the police foundation are visible and accountable both to the general public and to its members. Thereafter, judgements can be made about whether it should be retained, and if so, under what management arrangements.

#### **E. Vigilantism**

The interregnum between the decay of authoritarianism and the emergence of democratic institutions and norms has seen the emergence of vigilantism and private security forces to fill the partial vacuum. Hundreds of suspected criminals have been summarily murdered or severely beaten, especially in the major cities, by their fellow citizens. In addition, political parties and religious organisations have formed security groups to safeguard party functions or enforce the ideology of religious sects.

Vigilantism can be curtailed when people are convinced that suspects will face the full rigour of the law. Likewise political party security forces can be dispensed with once the police can be relied upon to maintain security at mass gatherings in cooperation with organisers.

Other groups employing force to uphold self-proclaimed standards of moral and ethical behaviour will continue to emerge and must be dealt with on an individual basis without curtailing their right to promote their beliefs or programs lawfully. Police have been reluctant to act against hoodlums wrapping themselves in Islamic righteousness for fear of alienating the broader Muslim community. But, there are signs that the limits of tolerance have been reached with the chief of police declaring that 'his men would no longer tolerate any acts of anarchy perpetrated wherever, be it in Jakarta or elsewhere, or by whomever'.<sup>69</sup>

The presence of vigilantism emphasises the need not only for police reform but also for public civics education, including information on how citizens can influence a reform process. However, such education must be synchronised with

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<sup>69</sup> 'Editorial: Stop this lawlessness', *The Jakarta Post*, 14 December 2000.

actions because PR in the absence of obvious reform only tends to deepen public cynicism and distrust.

## **F. Winning Public Respect and Support**

A prerequisite for winning public respect for law enforcement agencies is that the population at large feels that:

- the political institutions and processes represent their interests, and the laws that govern them are not unnecessarily onerous or discriminatory;
- the law enforcement system as a whole is operating reasonably effectively and impartially;
- the law is accessible to the general public; and,
- there are effective mechanisms to oversee and restrain those entrusted with upholding law and order.

Only when this prerequisite has been fulfilled is it possible to expect the public to play its role by reporting crime, giving testimony against offenders, and desisting from taking the law into its own hands. This will not happen automatically but needs promotion through public education by various means and evidence that the system is beginning to function as it should.

Although the police often succeed in solving common crimes their failure to resolve some high profile cases sustains public scepticism.<sup>70</sup> Particular examples are the inability to uncover the masterminds behind the numerous bombings during 2000, the failure to arrest high profile fugitive Tommy Soeharto, and an unwillingness to check the abuse of police powers in places like Aceh.

Until high profile cases like these begin to be resolved, no amount of public education will win public respect for the law or the police. Nevertheless, public education can inform the population of how a police force should function and what responsibilities the populace has for supporting the rule of law and demanding reform of the police.

## **G. Internal Security**

The leading role of the police in internal security poses a number of dilemmas and complicates public oversight.

Some members of TNI and the police have a very shallow understanding of the fundamentals of internal security. They tend to believe internal political conflict is primarily the result of conspiracy and external interference rather than a reaction to the abuse of state power. The murder of foreign-funded Indonesian human rights activists in Aceh - allegedly by the military -- the expulsion of foreign reporters from Irian Jaya on trumped up charges of spying, and restrictions on locally based foreign journalists' coverage of trouble spots are indicative of this paranoia. They point to the limits of democratic transition and the absence of a co-ordinated strategy to resolve or manage internal security disputes.

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<sup>70</sup> Crime statistics are subject to great debate, nowhere more so than in Indonesia, but the INP claim to have an annual clear-up rate of about 55 per cent. Major General (Police) Nurfaizi, 'Peningkatan Kualitas Profesi Penyidik', in *Polisi dan Masyarakat: Hasil Seminar Persatuan Kepala Polisi Asia Pasifik 1998*, Cipta Manunggal, Jakarta, 1998, p. 108.

The strategy of denial is flawed in an era of instantaneous communications. Any plausible strategy to contain and manage separatist movements must be based on the assumption that government policy and implementation will be visible to local and international interest groups. East Timor was a prime example of the failure to understand that covert strategies that might have worked prior to the end of the Cold War and the advent of micro communications technology cannot be sustained, particularly in a nation trying to build democratic institutions.

In the theoretical sense the police have always been in charge of internal security but in reality it was primarily a military domain supported by the police until 1999. This was acknowledged by Admiral Widodo, Commander of the TNI, in January 2000 when he declared that 'the national police must assume the main role as the backbone and cornerstone of law enforcement in maintaining stability...' and reportedly barred the military from interfering in the police's business.<sup>71</sup>

The INP was ill-prepared to assume that role. It has been unable to stem the violence in Aceh, and the military has been hesitant to lend support despite repeated requests. Whether this was to show that the army was indispensable or due to being over-committed elsewhere is a moot point. Although Brimob has received military training from the Army, the police spokesman admitted that the police were not 'equipped to deal with the guerrilla warfare in Aceh'.<sup>72</sup>

While the President has sought dialogue with the dissidents, the military has been threatening an offensive campaign to dispose of the armed wing of the Aceh Liberation Movement (GAM). Troop strength in the province was increased in February 2001. This could be part of a two-pronged strategy to get the guerrillas to the negotiating table but it also reflects disagreement within the government about the measures needed to resolve the Aceh problem.<sup>73</sup>

Whatever the case may be, the director of Indonesia's Legal Aid and Human Rights Association, Hendaradi, has warned that the 'effort to offer a military solution to resolve problems in conflict areas, or to show the military as the only saviour capable of bringing about national stability and unity, has already proved that it only causes more unrest and increases the desire for secession'. He called on the government to 'strictly control police and military personnel in Aceh ... and win the people's trust by putting on trial troops that had violated the human rights of civilians in Aceh'.<sup>74</sup>

The Aceh case demonstrates the complexity of internal security operations. The president wants a peaceful solution in which Aceh stays within the Republic but is granted regional autonomy including the right to apply Islamic law. The army, or at least elements of it, want the situation to remain unstable or deteriorate so that the government has no option but to give it emergency powers to bring the Acehnese to heel -- hence limitation on assistance to the police and covert operations to foil the humanitarian pause and peace talks. The police are partly

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<sup>71</sup> 'Police should maintain stability: Admiral Widodo', *National News*, 24 January 2000.

<sup>72</sup> 'Police want military operation in Aceh', *Indonesian Observer*, 18 December 2000.

<sup>73</sup> Colonel Syarifudin Tippe, the military commander in Aceh, has produced a good exposition of the problems in Aceh although some of his prescriptions are debatable. *Aceh di Simpang Jalan*, Cidesindo, Jakarta, 2000.

<sup>74</sup> 'Police want military operation in Aceh', *Indonesian Observer*, 18 December 2000.

complicit and partly the meat in the sandwich in this struggle and need to avoid adopting the brutal and counter-productive practices of TNI intelligence.

In a global study of ethnic conflict, Ted Gurr, an acknowledged scholar of internal conflict, and his associates, reiterated a long evident truism that 'repression without accommodation regularly leads to renewed resistance and rebellion, as it did in Indonesia after Jakarta began its democratic transition ...'.<sup>75</sup> The strictly controlled application of military force may be necessary to counter the more militant elements of separatist causes and to foster negotiations but it should not have the effect of further alienating the general community in the affected area or of limiting the concessions that are necessary to address substantive grievances.

Part of the solution must be restoration of the legitimacy of state institutions, including the police. As the solution invariably includes the granting of regional autonomy, the question of control over law enforcement is a central issue. If the autonomy agreements do not include the raising of a local police force, regional oversight of national law enforcement agencies stationed in or acting in the region must be addressed if national policies are not to negate the effect of political concessions.

The question that arises from this is: can the police both regain their public legitimacy as impartial upholders of the law and also repress political dissent? For example, could the police regain legitimacy as the protectors of public order in Aceh and at the same time continue to pursue the radical elements of GAM who refuse to compromise on their demand for independence? Would measures applied in pursuing the radical elements of GAM thwart police efforts to regain public trust as the impartial upholders of law and order?

There is an area on the spectrum of conflict where criminality, legitimate political dissent, and armed political dissent overlap. What instrument should the government employ to manage or combat these challenges to the political order? For example, the police arrested the political leaders of the Papuan independence movement in late November 2000 to head off a possible reaffirmation of the 1 December 1961 declaration of Papuan independence. Police are exploring the possibility of charging these leaders under articles of the Criminal Code relating to incitement or aiding and abetting insurgency.

The political reaction that followed included attacks on the Abepura market and the killing of several men, including two policemen, and injury to others. This case involved the police in making political decisions in relation to the arrest of the Papuan leaders, dealing with legitimate political dissent, and dealing with criminal offences connected with the political campaign to win independence.

In such circumstances it is unlikely that Papuans would have much respect for the impartiality of the police. The brutality of the police response to the murder of their fellow officers would only have reinforced that view.<sup>76</sup> The political nature of the case and the fine line between the criminal law and politics were demonstrated when President Abdurrahman Wahid ordered the release of the

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<sup>75</sup> 'New Ways to Manage Nationalist Passions', *Foreign Affairs*, May-June 2000.

<sup>76</sup> 'Student beaten to death in police retaliation for Irian attack', *AFP*, 8 December 2000.

Papuan leaders only to have his decision overruled by the police and his own cabinet.

If it had been a purely criminal matter, the refusal of the police to buckle to political pressure would have been applauded. But the political standing of the Papuan leaders and their pursuit of independence through peaceful means meant that the police were seen to be perpetuating the Soeharto tradition of 'rule by law' rather than being guardians of the rule of law. It also exposed divisions within the government on how separatist movements should be countered.

All this highlights the pressing need for a thorough government review of the appropriate policies, strategies and division of responsibilities for dealing with internal security. Only then can appropriate responses to particular trouble spots be determined and implemented in a rational and cohesive manner. It would also take a lot of pressure off the police and allow them greater scope to concentrate on reform once the impetus is found.

## **V. CONCLUSIONS**

The problem of police reform is not the absence of laws, ethical codes, organisation, knowledge or technology. It is one of political will and mustering the political support to erode and capture the underlying structures of political power and patronage.

Police reform cannot proceed in isolation from more general political and social reform. For example, reform of the taxation system is required to provide government with the resources to properly fund the police and other public agencies. The police alone cannot break endemic corruption. The entire political and social structure that nurtures and sustains corruption has to be reformed. Likewise, reforming the police without complementary reform of the other elements of the justice sector and the TNI will be nugatory.

However, it has to be recognised that entrenched structures of power and patronage cannot be broken down quickly and that premature attempts to introduce reforms that challenge power and patronage will be foiled. As suggested above, it is recommended that the government be encouraged to pursue a non-threatening strategy while community pressure builds for more substantive reform.

The INP was deprived of international support during the Soeharto era because it was an orphan of the military. Now it would benefit from international assistance but this should be governed by political reality. International involvement can contribute to developing domestic demands for reform and to showing how reform might be approached. It can also assist by helping to reconcile separatist movements, which would ease the democratic transition and allow the police greater latitude to pursue reform.

Forcing reform on any police force is a major undertaking. Forcing reform on the INP will be a crucial test of how far democratic transition has really gone. Mochtar Kusumaatmadja's description of the state of Indonesia's justice sector as

'desperate but not hopeless' is an apt description of the state of the INP.<sup>77</sup> The last word goes to the intellectual doyen of the Indonesian police, retired Police General Awaloedin Djamin, who has written that 'without government support, and community support more generally, it will be difficult for the police to perform their mission effectively and efficiently'.<sup>78</sup>

**JAKARTA/BRUSSELS, 20 February 2001**

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<sup>77</sup> *Law Reform in Indonesia: Results of a research study undertaken for the World Bank*, Cyerindo, Jakarta, 1998, p. 159.

<sup>78</sup> Awaloedin Djamin, *Menuju POLRI Mandiri Yang Professional*, Yayasan Tenaga Kerja Indonesia, 1999, p. 228.

## GLOSSARY

<b>Bimmas</b>	Bimbingan Masyarakat (Community Counseling)
<b>Brimob</b>	Brigade Mobil (Mobile Brigade)
<b>Bulog</b>	Badan Urusan Logistik (Logistics Management Agency)
<b>DKN</b>	Dewan Kepolisian Nasional (National Police Council)
<b>Gamatpol</b>	Lembaga Pengamat Polisi (Police Observers Institute)
<b>Hansip</b>	Pertahanan Sipil (Civil Defence) but more commonly a collective term for a volunteer militia composed of various elements administered by the department of home affairs.
<b>Intel-Pam</b>	Intelijens dan Pengamanan (Intelligence and Security)
<b>Kamra</b>	Keamanan Rakyat (People's Security)
<b>KHN</b>	Komisi Hukum Nasional (National Law Commission)
<b>KKN</b>	Komisi Kepolisian Nasional (National Police Commission)
<b>Komnas HAM</b>	Komisi Nasional Hak-Hak Asasi Manusia (National Human Rights Commission)
<b>Kontras</b>	Komisi Untuk Orang Hilang dan Korban Tindak Kekerasan (Commission for the Victims of Violence and Missing Persons)
<b>Lantas</b>	Lalu Lintas (Traffic)
<b>Linmas</b>	Perlindungan Masyarakat (Community Protection, equals civil defence and emergency services)
<b>MPR</b>	Majelis Permusyawaratan Rakyat (People's Consultative Assembly)
<b>Muspida</b>	Musyawaharah Pimpinan Daerah (Provincial Leaders Consultation)
<b>NEI</b>	Netherlands East Indies
<b>New Order</b>	Coincides with Soeharto era 1966-1998
<b>NGO</b>	Non-Governmental Organisation
<b>Old Order</b>	The latter part of the Soekarno era (or the era of Guided Democracy) 1959-1966
<b>Permesta</b>	Perjuangan Masyarakat Semesta (Total People's Struggle)



<b>Polres</b>	Polisi Resor (Resort Police – Resort equals administrative area)
<b>Polri</b>	Polisi Republik Indonesia (Indonesian National Police)
<b>Polsek</b>	Polisi Sektor (Police Sector)
<b>Polwil</b>	Polisi Wilayah (Regional Police)
<b>Reserse</b>	Criminal Investigation
<b>PRRI</b>	Pemerintah Revolusioner Republik Indonesia (Republic of Indonesia Revolutionary Government)
<b>RIS</b>	Republik Indonesia Serikat – Federated Republic of Indonesia
<b>Samapta</b>	Patrol
<b>Satpam</b>	Satuan Pengamanan (Security Unit)
<b>TNI</b>	Tentara Nasional Indonesia (Indonesia National Army, or Armed Forces)
<b>Tripida</b>	Tri Pimpinan Daerah (District Leadership Trio)
<b>Tramtib</b>	Ketentraman dan Ketertiban (Tranquility and Order)
<b>Wanra</b>	Perlawanan Rakyat (People's Resistance)